Filed 10/21/16 In re M.B. CA4/2

**NOT TO BE PUBLISHED IN OFFICIAL REPORTS**



**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

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| In re M.B. et al., Persons Coming Under the Juvenile Court Law. | |
| RIVERSIDE COUNTY DEPARTMENT OF PUBLIC SOCIAL SERVICES,<br><br>Plaintiff and Respondent,<br><br>v.<br><br>L.A.,<br><br>Defendant and Appellant. | E065643<br><br>(Super.Ct.No. INJ1500099)<br><br>OPINION |

APPEAL from the Superior Court of Riverside County. Susanne S. Cho, Judge. Affirmed.

Linda Rehm, under appointment by the Court of Appeal, for Defendant and Appellant.

Gregory P. Priamos, County Counsel, and James E. Brown, Guy B. Pittman and Julie Koons Jarvi, Deputy County Counsel, for Plaintiff and Respondent.

## I

## INTRODUCTION

In this juvenile dependency action, father appeals the juvenile court's finding at the contested six-month review hearing that the Riverside County Department of Public Social Services (DPSS) provided reasonable reunification services to father. Father argues the DPSS failed to make a good faith effort to overcome obstacles to father obtaining conjoint therapy with his daughters, M.B. (born in 2004) and E.B. (born in 2008).

Because the court ordered a continuation of reunification services and the reasonable services finding was not adverse to father's interest, he is not an aggrieved party. Therefore the finding of reasonable services is not directly appealable. However, because such a finding may have negative consequences at subsequent hearings, the finding may be reviewed as a petition for writ of mandate. (*Melinda K. v. Superior Court* (2004) 116 Cal.App.4th 1147, 1150 (*Melinda K.*).) We therefore treat father's appeal as a writ proceeding. In reaching the merits, we conclude substantial evidence supports the juvenile court's finding of reasonable services, and deny the writ.

## II

## FACTUAL AND PROCEDURAL BACKGROUND

On April 8, 2015, DPSS filed a juvenile dependency petition (Petition) on behalf of M.B. and E.B. (the girls). M.B. was 11 years old and E.B. was almost seven years old. The Petition alleged that mother was unable to care for, protect, and support the girls. Mother admitted suffering from ongoing mental health issues, which caused her to have

thoughts of harming herself and the girls. Mother had been diagnosed with bipolar disorder and prescribed medication. The Petition further alleged that father had a history of abusing alcohol and failed to seek ongoing after-care. Father also had a criminal history, which included a 2010 charge for driving under the influence (DUI) with his children in the vehicle, and suffered a history of mental health issues, including depression, for which he was prescribed medication.

DPSS filed the Petition after receiving a referral on April 6, 2015, alleging that mother had sought emergency mental health care at the Telecare Crisis Stabilization Unit (CSU). She requested the staff to ask Child Protective Services (CPS) to pick up the girls, explaining that her brain was "mush, and I can't take it anymore." Mother said she did not have any family who could care for the girls at that time. During intake at CSU, mother said she was hospitalized as a teenager when she attempted suicide and had been diagnosed with bipolar disorder. Mother stated she had been abused as a child and had been a victim of domestic violence by father.

Mother reported she lost her job, became homeless, and witnessed father touch E.B. sexually. Mother had been living with the girls at a homeless shelter in Palm Springs. Father's sexual abuse of E.B. was investigated but it did not result in modification of the family law custody orders. Father was still permitted to visit the girls. On April 2, 2015, the family law court had denied mother's petition to modify child custody and visitation ordered in July 2010. The existing order specified joint legal custody of the girls and alternating weekend visitation with father. Mother petitioned for

modification of the custody and visitation order because she believed father had sexually abused E.B.

Because mother did not get the custody modification she had hoped for, she checked in at CSU and wanted CPS to take the girls. Mother had been attending programs at CSU but was required to take medication, which she claimed did not give her any relief. Mother reported that father abused over-the-counter allergy medication and, while he was drunk, drove the girls during his visits, and the police did nothing about it when she reported it. In addition, father beat up his disabled roommate in front of the girls and mother, but the police did nothing.

M.B. told the social worker mother had not physically abused or neglected her. She understood mother requested she and E.B. be placed in foster care. M.B. said she did not want to stay with relatives, but requested placement with E.B. When the social worker asked M.B. if she would like to stay with father while mother was at CSU, E.B. said, "No," and added, "My father is an alcoholic and a child molester." M.B. said that recently mother, E.B., and M.B. had been staying at father's home. He hid alcohol bottles around his apartment, and smelled like alcohol. M.B. said she and E.B. saw father beat up his roommate. E.B. refused to respond to the social worker's attempts to interview her.

Mother was admitted to CSU, and the girls said goodbye to her and went with the social worker without incident. The social worker was unable to contact father on April, 6, 2015, but the following day visited him at his residence. Father acknowledged he was currently under investigation by the DPSS and police department for allegations by

mother that he sexually abused E.B. Father was concerned about the allegations. Father denied the sexual abuse allegations and denied he had harmed either of the girls. Father acknowledged it was best not to place the girls with him until the police completed their investigation.

Father said he understood mother needed help and that, because she was sexually abused by her father, she might have misinterpreted an innocent expression of affection. As to his fight with his roommate, he acknowledged he handled the matter poorly. His roommate, Robert, was smoking marijuana while the girls and mother were staying with him for a few days. Father was upset about this and confronted him. Robert became furious with father and grabbed father by the throat. Father threw Robert, who was disabled, to the ground and sat on his back. Mother called the police. No one was arrested and things calmed down. Robert no longer lives with him.

**Detention Hearing**

At the detention hearing, the court ordered the girls placed together in a foster home and ordered supervised two-hour visitation twice a week for both parents. DPSS reported in its detention hearing report that on March 7, 2015, it received a referral alleging that, while the girls and mother were staying at father's apartment, mother witnessed father caressing E.B. on her thigh and then put his hand down the back of her under pants. Mother told him not to do that. Father told mother not to tell him how to raise his children. The investigation into the sexual abuse allegations was still open at the time of the detention hearing but, according to mother, it had been determined that father's acts were not criminal.

**Jurisdiction Hearing**

DPSS reported in the jurisdiction report filed in April 2015, that M.B. had told the social worker that father would "caress my back and sometimes go a little down on top of my panties." M.B. denied being touched on any other parts of her body. M.B. also said father was an alcoholic. When he drank, he would become angry, sweat, turn red, and say bad words. M.B. reported her mother was "extremely suicidal" and told the girls she did not want them to live in the world because it was "evil." When mother and father disciplined the girls, they yelled at the girls and hit them.

E.B. told the social worker that when her parents disciplined her, mother spanked her with a belt and father threw her on the bed or gave her a two-hour timeout. E.B. said father had caressed her back inside her underwear. E.B. stated that everything M.B. had stated to the social worker was true.

DPSS reported that father had acknowledged being an alcoholic. Before the juvenile dependency proceedings, he had successfully completed a 28-day substance abuse program and a court-ordered substance abuse program after his DUI conviction. When mother accused him of sexually abusing E.B., father had not had any alcohol for about six months. Father stated he did not attend Alcoholics Anonymous (AA) meetings or have a sponsor. Father acknowledged he suffers from anxiety and depression, for which he takes medication.

DPSS further reported that, according to the police investigation, E.B. asked father to rub her back and father complied while mother, father, and E.B. were lying on the bed together at father's home. Father put his hand inside the waist of E.B.'s one piece gym

outfit and rubbed her lower back at the juncture of the lower back and buttocks. Mother suddenly jumped up and yelled at father that this touching constituted sexual abuse. Mother and father argued about it, and then mother called the police to report that she believed father had just sexually abused E.B.

M.B. told the social worker father had similarly rubbed her back in the past and she found it disturbing. Therefore she had not asked father to do it again. A SART (Sexual Assault Response Team) exam on March 7, 2015, noted no physical findings, and forensic interviews of the girls on March 9, 2015, were consistent with the girls' previous statements regarding the incident. DPSS confirmed that the police were not filing criminal charges against father. Father acknowledged that he needed to repair his relationship with the girls following the allegations of inappropriate touching.

At the jurisdiction hearings in May and June 2015, the court sustained the Petition and continued the disposition hearing.

**Disposition Hearing**

DPSS reported in the disposition hearing report filed in July 2015, that supervised two-hour visitation between the girls and parents had taken place and that the visits would continue at least once a week. DPSS stated it had no concerns regarding visitation. DPSS further reported that both parents wanted to reunify with the girls and that reasonable services had been provided.

During the disposition hearing on July 27, 2015, the girls' attorney, Karen Cote, stated that she believed mother had persuaded the girls that there had been a molestation when there had not been one. Cote stated she was more inclined to consider father as the

custodial parent than mother but recommended that first father and the girls participate in conjoint therapy, which was not currently part of father's case plan. DPSS was in agreement with the recommendation of conjoint therapy.

The court accordingly ordered father's case plan modified to include conjoint therapy for father and the girls. The juvenile court further ordered the girls removed from their parents' custody, ordered reunification services for both parents; found parents had made progress toward alleviating or mitigating the causes for removal; and authorized increased visitation for both parents. The modified case plan, approved in August 2015, stated that conjoint therapy was to take place, "as clinically appropriate," once a "professional" determined that the girls and father were ready and willing to address the issues leading to the girls believing they were touched inappropriately by father.

**Postdisposition Proceedings**

In November 2015, E.B. was placed on a 5150 hold after she expressed suicidal ideation. She said she wanted to kill herself by strangulation or stab herself. She was diagnosed as suffering from major depressive disorder and prescribed Zoloft. Ongoing therapy and outpatient care were recommended. The social worker was troubled by how mother and father responded to E.B.'s hospitalization. Mother was excessively emotional and father had difficulty supporting E.B.'s situation. He focused on getting E.B. to answer his questions regarding E.B.'s experience hearing voices.

DPSS's interim review report filed in December 2015, stated that the girls reported they enjoyed their weekly visits with both parents. However, mother reported that the girls had written letters to her indicating they were afraid of father and did not

want to be returned to his care. This surprised the social worker because the girls did not show any fear or discomfort around father during supervised visits. The social worker noted that the vocabulary in E.B.'s letter indicated it was not written by E.B. The girls were participating in individual therapy. DPSS was concerned about E.B.'s escalating emotional behaviors recently exhibited, including her attempt to commit suicide and statements she was hearing voices encouraging her to strangle herself. E.B. was referred to Riverside County Mental Health for individual therapy and medication monitoring.

DPSS reported that father had completed 16 sessions of anger management with Catholic Charities; was in compliance with his substance abuse program; was actively participating in group therapy; attended AA meetings two to four times a month; and participated in random drug testing, with one no show and all other tests negative for controlled substances. DPSS was concerned, however, that father had not secured appropriate housing for the girls. Father reported his roommates smoke marijuana. In addition, father had not yet begun conjoint therapy with the girls, which was necessary before reunification could take place, to ensure the girls felt safe in father's care.

At the interim review hearing in December 2015, mother's attorney, Krista Lupica, informed the court that law enforcement had closed the sexual abuse case brought against father. Father's attorney, Denise Shaw, stated that father was in the process of finding appropriate housing. Shaw acknowledged that father's housing situation was not good at the present time. Shaw further stated that father wanted conjoint therapy to begin. Shaw emphasized that it was crucial the conjoint therapy begin soon. Mother's attorney added that mother wanted the girls to also start individual

therapy again. The girls' attorney, Cote, agreed that conjoint therapy should begin as soon as possible. The court clarified that conjoint therapy should include both parents, but with the girls and each parent separately. The court ordered therapy for both girls and instructed DPSS to "work actively towards conjoint therapy for the children with each individual parent to help them in this transitional period if family maintenance is contemplated in the future at some point."

**Six-Month Review Hearing**

DPSS reported in its six-month status review report filed in January 2016, that mother was unemployed and had no source of income. Father continued to live in his home with roommates who used marijuana in his home. He was looking for another home that was appropriate for the girls. The girls were participating in individual therapy. E.B. visited a psychiatrist once a month for medication monitoring for depression and suicidal ideation. On November 24, 2015, the girls were placed together in a new foster home because their caregiver felt she could not appropriately provide for E.B.'s mental health needs.

DPSS reported that father continued to receive after-care services through Celebrate Recovery and attended AA/Narcotics Anonymous (NA) meetings. The girls reportedly enjoyed supervised visits with both parents for two hours a week. Both parents behaved appropriately during the visits. Both parents stated that conjoint therapy should begin as soon as possible in order to facilitate reunification. DPSS concluded father had made adequate, but incomplete progress on his case plan. He still had not secured appropriate housing for the girls or participated in conjoint counselling, which

was necessary to facilitate a safe transition for the girls. Father and the girls agreed in their updated case plan "to participate in individual, group, and conjoint therapy services, as clinically appropriate."

At the six-month review hearing in February 2016, the court set the contested six-month review hearing for March 2, 2016. The court ordered unsupervised visitation for both parents and ordered DPSS to "investigate conjoint therapy" and "follow up on it so that the therapist is moving towards it." During the hearing, father's attorney, Shaw, noted her concern that conjoint therapy had not started.

The court asked the DPSS social worker, Tracy Marquardt, if she had any information on the status of scheduling conjoint therapy. Marquardt stated that the girls just recently began therapy with new, separate therapists in December 2015. It was up to the girls' therapists, not the DPSS, to decide when the girls were ready for conjoint therapy. Marquardt said the therapists were aware that they were required to make that determination. Marquardt had had extensive conversations with them, such that the therapists were aware of the need to move toward conjoint therapy. The girls started going to new therapists because the previous therapist was seeing both girls. There was a conflict, which required the girls to have new, separate therapists. In addition, E.B. required a higher level of therapy.

The girls' attorney, Cote, stated M.B. seemed to be ready for conjoint therapy with father, and possibly with mother. Cote informed the court E.B., who was seven years old, was currently hospitalized again for suicidal ideations and was experiencing auditory hallucinations. Cote requested the girls have unsupervised visitation with father. Visits

with him had gone well. As to mother, Cote was concerned that mother was in denial as to E.B.'s mental health situation. Marquardt confirmed that E.B. had recently been hospitalized, for the third time, after she told a classmate she wanted to kill herself. Expressing concern for E.B., the court ordered DPSS increase contact with E.B.

During the contested six-month review hearing on March 2, 2016, father's attorney, Shaw, advised the court that conjoint therapy had still not yet begun. Shaw requested father receive unsupervised visits even though there had not been conjoint therapy. The girls' attorney, Cote, indicated that mother should not have unsupervised visits because she seemed unable to overcome her obsession with the belief father had molested E.B. Mother would likely discuss this with the girls, which could cause emotional harm to the girls and irreparable harm to their relationship with father.

Marquardt stated she believed that as to father, there should be conjoint therapy before allowing unsupervised visitation because of the need to rebuild the girls' trust in father. Marquardt said she spoke with the therapist about the time limitations. DPSS was waiting for the therapist to approve the conjoint therapy. Conjoint therapy was needed to mend father and the girls' relationship with father. Marquardt testified at the hearing that about two weeks before the contested six-month hearing, she contacted M.B.'s therapist regarding conjoint therapy and sent an email to E.B.'s therapist regarding conjoint therapy. Marquardt had not heard back from the therapists regarding conjoint therapy.

As to the alleged molestation, Marquardt stated that DPSS investigated the allegations and determined they were unfounded as to both girls. Law enforcement declined prosecution. Father was currently visiting the girls for two hours, once a week.

The girls' attorney, Cote, said she was comfortable increasing visitation with father so that he and the girls could participate in normal activities, such as going to a movie and dinner. Mother testified that M.B.'s therapist had approved conjoint therapy for M.B. and mother. Mother said she still believed father molested the girls.

Father testified that he was living in the same residence but no longer had any roommates. There were pending eviction proceedings. The homeowner might give him a "keys-for-cash" deal to remove father and his roommates. Father's attorney, Shaw, objected to a finding of reasonable services on the grounds father's case plan was amended in August 2015 to include conjoint therapy, but father had not received it. Shaw argued DPSS failed to make any effort to ensure father received conjoint therapy.

The girls' attorney, Cote, informed the court that lack of conjoint therapy is a problem common in most cases. Scheduling the therapy was beyond DPSS's control because scheduling was contingent upon the therapist's determination that the child was ready for it to begin. Oftentimes there is a change of therapists, which requires starting over with regard to the determination a child is ready. Also, delays result from various episodes, such as the 5150 incident. Cote concluded that DPSS was not at fault for not ensuring that conjoint therapy had begun. The circumstances were beyond DPSS's control. Cote did not agree father had not received reasonable services.

The court noted that a finding of a lack of reasonable services normally applied where the DPSS willfully failed to do what it was ordered. Such a finding penalized DPSS and cut off its funding. The court further stated that conjoint therapy was repeatedly raised during the past proceedings. The court concluded that part of the

problem was the changing of therapists, E.B. having episodes interfering with progress, and the girls needing more time with their therapists before beginning conjoint therapy. The court stated it hoped that conjoint therapy would begin within the next six months.

The court found that DPSS had complied with the case plan by making reasonable efforts to return the girls to a safe home through provision of reasonable services designed to aid in overcoming the problems that led to their removal and continued custody, and by making reasonable efforts to complete any steps necessary to finalize the permanent placement of the girls. The court further found that father had made adequate but incomplete progress toward alleviating or mitigating the causes necessitating placement, in that he failed to make substantive progress or complete the court ordered case plan. The court continued reunification services based upon the finding there was a substantial probability the girls would be returned to the parents within six months. The court ordered conjoint therapy take place between parents and the girls as soon as possible and that DPSS shall "proactively encourage the therapist to start conjoint therapy for the children and their parents." The court clarified that it was no longer waiting for the therapist to recommend it, because there were only a few months left in the proceedings. The court warned that, "[i]f it's not done at the June 6 hearing date, I will make a finding that the department failed to provide reasonable services in this case."

The court authorized unsupervised day visits for father for a minimum of four hours, in a public setting, and increased father's visits to include unsupervised overnight and weekend visits once conjoint therapy began. The court also authorized DPSS to increase father's unsupervised visits upon DPSS completing a suitable home evaluation

for father, conjoint therapy beginning, and DPSS conferring with the therapist as to what visitation was appropriate.

III

REASONABLE SERVICES FINDING IS NOT DIRECTLY APPEALABLE

Under *Melinda K., supra,* 116 Cal.App.4th 1147, the juvenile court's finding of reasonable services is not normally an appealable order. This is because, "'the scope of a party's right to appeal is completely a creature of statute.' [Citation.] . . . To govern appeals in dependency proceedings, the Legislature has enacted Welfare and Institutions Code section 395,[] which provides: 'A judgment in a proceeding under Section 300 may be appealed from in the same manner as any final judgment, and any subsequent order may be appealed from as from an order after judgment . . . .' A dispositional order constitutes an appealable judgment. [Citations.] Thus, pursuant to section 395, the juvenile court's dispositional and following orders are directly appealable, with the exception of an order setting a selection and implementation hearing under section 366.26, which is reviewable only by petition for extraordinary writ. [Citations.]" (*Melinda K., supra,* 116 Cal.App.4th at pp. 1152-1153.)

A finding of reasonable services is neither a judgment nor a postjudgment order. Therefore, "section 395, which authorizes an appeal from an 'order' after judgment, does not authorize an appeal from the isolated finding in this case that reasonable reunification services had been provided. (Compare § 395 [permitting appeal of an 'order after judgment'] with Cal. Rules of Court, rule 39.1B(b) [now Cal. Rules of Court, rule 8.452]

[permitting a writ challenging the juvenile court's 'findings and orders'].)" (*Melinda K., supra,* 116 Cal.App.4th at p. 1153.)

Here, the reasonable services finding may be contested by a petition for writ of mandate, as in *Melinda K., supra,* 116 Cal.App.4th 1147. In *Melinda K.,* the court held the finding reasonable services could not be challenged by appeal because the mother was challenging only the reasonable services finding. The juvenile court took no action adverse to the mother based on the finding. The court made no finding of detriment based on the mother's lack of participation in court-ordered services. (*Id.* at p. 1156.)

Likewise, here, there was no finding of detriment based solely on father's lack of participation in court-ordered services, such as conjoint therapy. Father was denied placement of the girls with him because he did not have appropriate housing. Even if father had participated in conjoint therapy, the court would have found it detrimental to return the girls to father. As in *Melinda K.,* father was challenging only the reasonable services finding and the juvenile court took no action adverse to father based on its finding DPSS provided reasonable services. (*Melinda K., supra,* 116 Cal.App.4th at p. 1156.) Therefore, father cannot appeal the reasonable services finding. (*Ibid.*)

We, however, decline to leave father without any means by which to challenge the juvenile court's finding. "We therefore hold that a petition for writ of mandate is the appropriate method by which to challenge a finding made by a juvenile court at a review hearing which does not result in an appealable order. In this way, a parent or legal guardian will be afforded meaningful appellate review of a finding which may ultimately have a significant effect on the dependency proceedings. Moreover, sequential appeals

and their accompanying delays will be avoided." (*Melinda K. supra,* 116 Cal.App.4th at p. 1157.)

Although in *In re Alvin R.* (2003) 108 Cal.App.4th 962 (*Alvin R.*), the court considered the father's appeal of the juvenile court's finding of reasonable services, there was no objection to the matter being brought by an appeal. Assuming the instant appeal should be brought as a writ petition, we will nevertheless decide the matter on its merits, because allowing this appeal to be treated as a writ petition is consistent with the overriding goals of addressing father's objection on the merits. (*Melinda K., supra,* 116 Cal.App.4th at p. 1157.)

IV

STANDARD OF REVIEW

When a finding of reasonable services is challenged on appeal, we review it for substantial evidence. (*Alvin R., supra,* 108 Cal.App.4th at p. 971; *Melinda K., supra,* 116 Cal.App.4th at p. 1158.) The lower court's finding of reasonable services "must be made upon clear and convincing evidence. [Citation.] 'When the sufficiency of the evidence to support a finding or order is challenged on appeal, even where the standard of proof in the trial court is clear and convincing evidence, the reviewing court must determine if there is any substantial evidence—that is, evidence which is reasonable, credible and of solid value—to support the conclusion of the trier of fact. [Citations.]' [Citation.]" (*Alvin R.,* at p. 971.) This court must draw all legitimate inferences in support of the findings of the juvenile court, even when there is no substantial conflict in the evidence. (*Melinda K.,* at p. 1158.)

V

REASONABLE SERVICES

Citing *Alvin R., supra,* 108 Cal.App.4th 962, father contends the juvenile court's finding of reasonable services constitutes prejudicial error. Father argues DPSS failed to take any measures to ensure that conjoint therapy was provided to him and the girls by the time of the contested six-month review hearing. In *Alvin R.*, the father appealed the juvenile court finding at the six-month review hearing that the department of child services (DCS) had provided reasonable services. The father's case plan required the father and his son, Alvin, to participate in conjoint therapy upon Alvin's therapist deeming it appropriate or, alternatively, upon the court ordering it, after Alvin had attended eight individual therapy sessions addressing allegations that, when disciplining Alvin, the father and his girlfriend had physically abused Alvin.

During the juvenile dependency proceedings, Alvin's individual therapy was delayed because his caretaker, his maternal grandmother, wanted a therapist close to her home. Also, there was a waiting list for Alvin to get into individual therapy, and there were scheduling conflicts. The court had previously ordered the conjoint therapy begin as soon as Alvin's therapist deemed it appropriate, regardless of the number of individual sessions completed. Unaware of this order, the social worker reported at the six-month review hearing that conjoint therapy had not taken place because Alvin had not completed eight therapy sessions. The father was in full compliance with his case plan, other than not having participated in conjoint therapy. He complained about the lack of progress toward conjoint therapy. The court set a contested hearing and ordered conjoint

therapy begin immediately. By the time of the contested hearing, the first conjoint therapy session had been scheduled for the week after the hearing.

At the contested six-month hearing, the juvenile court found that returning Alvin to his father would create a substantial risk of detriment to Alvin. Therefore the court continued jurisdiction, found the father had complied with his case plan, found DCS had made reasonable reunification efforts, ordered six additional months of reunification services, and set a 12-month review hearing. The court concluded services were reasonable because Alvin's first individual therapy session occurred within five months after the original court order for therapy, and because the delay in therapy was caused by Alvin's grandmother.

On appeal, the *Alvin R.* court reversed the finding of reasonable services, concluding the DCS had abdicated its responsibility to effectuate timely individual therapy for Alvin. This failure prevented the father from participating in conjoint therapy, which impeded the father's ability to have any meaningful visitation and reunify with Alvin. (*Alvin R.*, *supra*, 108 Cal.App.4th at p. 965.) Alvin did not want to live with his father because he feared his father and the girlfriend would whip him, which made him feel unloved. (*Id.* at p. 969.)

In reaching its holding reversing the reasonable services finding, the *Alvin R.* court reasoned that visitation is an essential component of any reunification plan; visitation must be as frequent as possible; and where a child is reluctant to visit, and family therapy is needed to promote visitation, such therapy may be critical to reunification. (*Alvin R.*, *supra,* 108 Cal.App.4th at p. 972.) The *Alvin R.* court concluded that conjoint therapy

was critical to the father's visitation and reunification. Alvin had refused visitation for four months, and it was unlikely visitation would take place without conjoint therapy. (*Ibid.*)

Similarly, here, we must determine whether there was substantial evidence supporting a finding of reasonable services. "Reunification services need not be perfect. [Citation.] But they should be tailored to the specific needs of the particular family. [Citation.] Services will be found reasonable if the Department has 'identified the problems leading to the loss of custody, offered services designed to remedy those problems, maintained reasonable contact with the parents during the course of the service plan, and made reasonable efforts to assist the parents in areas where compliance proved difficult." (*Alvin R., supra,* 108 Cal.App.4th at pp. 972-973.)

In *Alvin R.*, the court concluded the DCS had made no effort to overcome obstacles to the provision of necessary therapy, whereas the "[f]ather had done all that was required of him under the plan. Thus, *one* service, getting Alvin into eight sessions of individual therapy, stood in the way of all measures remaining under the reunification plan, and the Department submitted no evidence of having made a good faith effort to bring those sessions about. And it ignored the court's first order eliminating the eight-session requirement. Further, there was no evidence with regard to *when* the referral to Alvin's unavailable therapist was made in the first instance. There was no evidence with regard to *when* he was placed on a waiting list. And there was no evidence with regard to any follow-up by the Department to move things along or to assist the overwhelmed

maternal grandmother in any respect other than a referral to a therapist with a waiting list." (*Alvin R., supra,* 108 Cal.App.4th at p. 973.)

The instant case is similar to *Alvin R., supra,* 108 Cal.App.4th 962, but distinguishable in that in the instant case father had not done all that was required of him. He still was not able to provide suitable housing. Even if conjoint therapy had been provided before the contested six-month hearing, the court would not have returned the girls to father because father did not have appropriate housing for the girls. Also, unlike in *Alvin R.,* father was permitted to visit the girls regularly and the visits went well. However, conjoint therapy was necessary before father was permitted to have unsupervised visits and before the girls could be placed with father.

More importantly, there was evidence DPSS contacted the girls' therapists several times and explained the need for conjoint therapy and for the therapists to determine when the girls were ready for the therapy. Unlike in *Alvin R., supra,* 108 Cal.App.4th 962, there was no prior court order allowing for bypassing the requirement the therapists determine the girls were ready for conjoint therapy before scheduling the therapy. The case plan approved by the court at the disposition hearing, stated that father was to participate in conjoint therapy with the girls "once a professional determines both he and the children are ready and will address the issues that led the children to think they were touched inappropriately by him." The delays in scheduling conjoint therapy were because of changes in the girls' therapists, E.B. suffering episodes of suicidal ideations, and conjoint therapy being contingent upon the girls' therapists' determination that the girls were ready for the therapy.

The record supports the court's determination that DPSS did not ignore the conjoint therapy requirement. DPSS social worker, Marquardt, testified that she had extensive conversations with the girls' therapists regarding the matter, and not just within two weeks before the contested six-month hearing. Marquardt informed the court at the hearing on February 1, 2016, as well as at the contested six-month hearing, that she informed the therapists of the court order for conjoint therapy, that the therapists' determination the girls were ready to participate was required, and that conjoint therapy needed to occur as soon as possible. Marquardt testified that she let E.B.'s therapist "know exactly what the court wanted and what we are looking for. We are just waiting for the okay from the therapist."

While it is possible Marquardt could have contacted the therapists more frequently to remind them of the need to make the determination, she could not force the therapists to find that the girls were ready for conjoint therapy or schedule it in the absence of the therapists' approval, when the case plan and the court required such approval. Furthermore, there was risk of harm to the girls in requiring the girls to participate in conjoint therapy when not ready, particularly E.B., who in November 2015, and March 2016, had been hospitalized for suicidal ideation.

While the juvenile court expressed concern and frustration with the delay in scheduling conjoint therapy, the record demonstrates the court carefully considered the testimony and argument before finding that DPSS did not ignore the court's order to provide conjoint therapy or abdicate its responsibility to assist in ensuring conjoint

therapy took place. Under the circumstances in this case there was substantial evidence that DPSS provided reasonable services.

It was not until the contested six-month hearing in March 2016, that the juvenile court insisted that, because of the delay in scheduling conjoint therapy and the diminishing time left to provide it, the therapists' determination the girls were ready for conjoint therapy was no longer a prerequisite to scheduling it. The court indicated that, while there was reasonable justification for not scheduling the therapy in the past, this would not be the case in the future. The court emphasized that, if conjoint therapy did not take place by the next hearing, the court would find reasonable services were not provided.

As in *Melinda K., supra,* 116 Cal.App.4th 1147, we conclude substantial evidence supported the juvenile court's finding DPSS provided father with reasonable services. In *Melinda K.*, the juvenile court rejected the mother's challenge to the juvenile court's finding at the contested six-month review hearing that the DCS had provided reasonable services. The *Melinda K.* court concluded the nine-month delay in providing the child with individual therapy and six-month delay in scheduling conjoint therapy was attributable to the caretaker's ignorance of how to proceed with the therapy process and to the change of DCS social workers assigned to the case. (*Id.* at p. 1159.)

The *Melinda K.* court affirmed the juvenile court finding of reasonable services, explaining that, "Once the new social worker learned that the minor was not in counseling, he immediately took steps to arrange both the individual and the conjoint counseling. There may not have been such a lengthy delay if the caretaker had

immediately asked the Department for assistance or if there had not been a change of assignment in social workers. Clearly, the delay in the minor's individual counseling rendered the services provided imperfect, but rarely will services be perfect. [Citation.] 'The standard is not whether the services provided were the best that might be provided in an ideal world, but whether the services were reasonable under the circumstances.' [Citation.] We conclude that substantial evidence supports the court's finding that the services provided were reasonable under the circumstances." (*Melinda K., supra,* 116 Cal.App.4th at p. 1159.)

Likewise, here, substantial evidence supports the court's finding that the services provided were reasonable under the circumstances. (*Melinda K., supra,* 116 Cal.App.4th at p. 1159.) Father has not demonstrated that there was anything DPSS could have done, within reason, to expedite the provision of conjoint therapy. The record shows that DPSS made reasonable efforts to move the case towards conjoint therapy, by apprising the therapists of the need for conjoint therapy as soon as possible, by requesting the girls' therapists to notify DPSS as soon as the girls were ready for conjoint therapy, by periodically contacting the therapists and discussing the need for court-ordered conjoint therapy, and by informing the juvenile court at hearings in December, 2015, January, February, and, finally, March, 2016, of the status of the scheduling of conjoint therapy. It was not until the March 2016, contested six-month hearing that the juvenile court eliminated the requirement that, before scheduling conjoint therapy, the girls' therapists determine the girls were ready for the therapy.

There may have been more the DPSS could have done to assist in scheduling conjoint therapy sooner. But "'[t]he standard is not whether the services provided were the best that might be provided in an ideal world, but whether the services were reasonable under the circumstances.'" (*Melinda K., supra,* 116 Cal.App.4th at p. 1159.) Substantial evidence supports the court's finding that the services provided were reasonable under the circumstances.

VI

DISPOSITION

The judgment is affirmed.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

CODRINGTON
J.

We concur:

McKINSTER
Acting P. J.

SLOUGH
J.